

BIDDER INSTRUCTIONS

WASHINGTON STATE FERRIES

M. V. TILLIKUM DRYDOCKING

CONTRACT NO. 00-6972

BIDDER INSTRUCTIONS

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1 **1. INTRODUCTION**

2
3 Washington State Ferries, a division of the Washington State Department of
4 Transportation (hereinafter called "WSF"), issues this Invitation For Bids (IFB) and
5 Bid Package for the following described project:
6

7 The Contract Work consists of the following repairs to the ferry M.V.
8 Tillikum: U.S. Coast Guard Credit Drydocking: inspection of inner and outer
9 hull, rudders, propellers, propeller shafts and sea valves; inner and outer shaft
10 seal replacements; inspection of potable water and sewage tanks; installation
11 of satellite compass; installation of the automatic draft indication system; steel
12 replacement on the vehicle deck; hull and preservation painting of the topside
13 super structure and other related work, as specified in the IFB Technical
14 Specifications. The vessel is 310'2" x 73' 2", and carries 100 autos and 1,000
15 passengers. All work associated with this vessel shall be scheduled to be
16 performed in drydock within Puget Sound, Washington during the period of
17 June 13 - July 1, 2005.
18

19 The project work shall hereinafter be called the "Contract Work". A more detailed
20 description of such Contract Work is provided in the IFB Special Provisions. As
21 used elsewhere in the IFB, the terms "State" and "Contracting Agency" shall have the
22 same meaning as "WSF".
23

24
25 **2. BID DUE DATE**

26
27 **The closing date for receipt of bids is 11:00 a.m. on Tuesday, May 17, 2005.** Any
28 bid received after the Bid Due Date shall be rejected and returned to the bidder
29 unopened. See Section 17 for additional information regarding the bid opening.

1 **3. PREQUALIFICATION**

2
3 **A. Standard Prequalification**

4
5 The prequalification process for WSF's Public Works Contracts is governed
6 by Washington Administrative Code (WAC) Chapter 46972-310 et. seq.,
7 copies of which will be supplied upon request from the WSF Contracts
8 Coordinator (see Section 4 herein for address and phone number).
9 Prequalification questions may be addressed to the WSF Contracts
10 Coordinator.

11
12 Before being furnished a Bid Form (informational copy enclosed), a
13 prospective bidder must be prequalified at the appropriate financial level
14 under WAC 468-310-050 for Class 82 work, "Drydocking and Hull Repairs".
15 A prospective bidder will not be given a Bid Form unless such bidder has
16 submitted its Standard Prequalification Questionnaire and Financial
17 Statement, and has received a WSF Certification of Prequalification, prior to
18 the Bid Due Date. Standard Prequalification application forms are available
19 upon request from the WSF Contracts Coordinator.

20
21 Alternatively, for a project valued at \$80,000 or less, a prospective bidder
22 may submit a one-time, project specific Contractor Prequalification
23 Questionnaire and Affidavit for Region Ad and Award Contracts, subject to
24 the procedural requirements described herein.

25
26 The Questionnaire (Standard or \leq \$80,000) enables WSF to decide whether or
27 not the bidder is qualified to perform ship repair and/or construction work.
28 The Questionnaire shall be sworn to before a person authorized to take oaths.

29
30 On the basis of the Questionnaire, WSF will either specify the type and
31 amount of work it considers the prospective bidder prequalified to perform or
32 advise the prospective bidder of the reasons they failed to be prequalified. To
33 remain prequalified under the Standard Prequalification requirements, the
34 bidder must submit an updated Questionnaire once a year and supplements
35 whenever required by WSF.

36
37 A submittal deadline applies to any prospective bidder not prequalified or
38 from whom a supplemental Questionnaire is due. To receive consideration
39 for issuance of a Bid Form on a specific project, the Questionnaire (or
40 supplement) must be received by WSF no less than fifteen (15) days prior to
41 the scheduled Bid Due Date, unless otherwise specified by WSF.
42

1
2 WSF may withdraw a bidder's prequalification or reduce its amount if:
3

- 4 1. The extent of other work the bidder has under contract (WSF or
5 otherwise) justifies such action, or
6
- 7 2. Past or present work on a WSF contract has been less than satisfactory.
8

9 If a bidder's Questionnaire does not contain sufficient information, WSF may
10 refuse to provide a Bid Form and disregard any bid submitted. After opening
11 bids, WSF may decide that a prequalified bidder is not responsible and may
12 refuse to accept the bid on that basis. Such a refusal will be conclusive unless
13 the bidder appeals within five days to the Superior Court of Thurston County.
14 Any appeal shall be heard within ten days after it is filed and shall provide at
15 least five days' notice to WSF.
16

17 The bidder shall ensure that the combination of the bid amount and other
18 contract work with WSF does not exceed the prequalification amount. If this
19 combination does exceed the prequalification amount, WSF may determine
20 the bidder to be not responsible and refuse to award a contract.
21

22 Two or more prospective bidders may, in a joint venture, prequalify and bid
23 jointly on a single contract. Each shall have filed a "Standard Questionnaire
24 and Financial Statement". Together they shall also file a standard form of
25 "Individual Project Statement of Joint Venture" and a joint venture agreement
26 in a form acceptable to WSF.
27

28 To bid jointly on a continuous joint venture on more than one contract, two or
29 more prospective bidders shall submit:
30

- 31 1. A "Standard Prequalification Questionnaire and Financial Statement"
32 compiled for the joint venture;
33
- 34 2. A "Standard Prequalification Questionnaire and Financial Statement"
35 for each member (if WSF has no copy on file); and
36
- 37 3. A copy of the "Joint Venture Agreement" signed by each member of
38 the joint venture and naming each person authorized to sign
39 documents on its behalf. (If any member is a corporation, a corporate
40 resolution shall accompany the agreement. This resolution shall
41 authorize the joint venture agreement and name the officer(s)
42 authorized to sign the joint venture agreement or contract on behalf of
43 the corporation.)
44

1 WSF will treat the continuing joint venture as a new firm and decide its
2 prequalification on that basis.

3
4 Any joint venture and each of its members is subject to the Non-
5 Responsibility Section herein.

6
7
8 **4. IFB PACKAGE AND INTERPRETATION**

9
10 Copies of the IFB Package may be purchased for the **non-refundable** fee of \$25.00
11 each by contacting:

12
13 **Mailing and Pick-up Address:** (NW Corner of Second & Broad)

14
15 Washington State Ferries
16 2911 2nd Avenue
17 Seattle, Washington 98121
18 Phone: (206) 515-3606 (recording)
19 Fax: (206) 515-3605

20
21 **Attn.: Barbara Olson / Contracts Coordinator**
22 Phone: (206) 515-3602
23 Fax: (206) 515-3605
24 E-Mail: olson@wsdot.wa.gov
25 (cc: parks@wsdot.wa.gov)

26
27 To facilitate timely responses, WSF will accept questions during the bid process only
28 from prospective bidders (i.e., prime contractors). WSF will not accept, and has no
29 obligation to respond to, inquiries from subcontractors or suppliers. Prospective
30 bidders should submit each question by both telefax and e-mail only, to WSF's
31 Contracts Coordinator (see above). Prospective bidders should also send a courtesy
32 copy (cc) of each e-mailed question to a second WSF Contracts Coordinator, as
33 indicated above. If there is any discrepancy between the faxed and e-mailed versions
34 of a question, then the faxed version will control. Questions must be submitted soon
35 enough to allow: (i) development and issuance of a written response; and (ii)
36 consideration of the response by all prospective bidders before submission of their
37 bids.

38
39 Additionally, if a prospective bidder requires an explanation, clarification, or
40 interpretation of any part of the Contract Documents, it may submit to the WSF
41 Contracts Coordinator a written request for an interpretation thereof. All requests for
42 interpretation are subject to the inquiry limitations specified in the preceding
43 paragraph. WSF will not be responsible for any other explanations or interpretations
44 of the Contract Documents. Oral explanations, interpretation, or instructions given
45 by anyone before award of the Contract will not be binding on WSF.

1
2 Any information given to a prospective bidder concerning any of the Contract
3 Documents will be furnished to all prospective bidders as an IFB Addendum if WSF
4 deems that information to be necessary in submitting bids or if WSF concludes that
5 the lack of the information would be prejudicial to other prospective bidders.
6
7

8 **5. EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE OF WORK**
9

10 The bidder shall carefully examine the Contract Documents and the Bid Form.
11 Submittal of a bid shall be conclusive evidence that the bidder has made its
12 examination and understands all requirements for the performance of the Contract
13 Work. The bidder further warrants, agrees and acknowledges by submitting a bid that
14 it:

- 15
- 16 A. Has taken steps reasonably necessary to ascertain the nature and scope of the
17 Contract Work; and understands that failure to do so will not be justification
18 for a Change Order, protest or claim against WSF;
19
 - 20 B. Has investigated and satisfied itself as to the general and local conditions
21 which can affect the Contract Work or its cost, including but not limited to:
22
 - 23 1. Conditions bearing upon acquisition, transportation, disposal, handling,
24 and storage of materials;
 - 25
 - 26 2. The availability of labor, materials, water, electric power, access roads
27 and parking;
 - 28
 - 29 3. Uncertainties of weather, tides, wind, or similar physical conditions at
30 the work site; and
 - 31
 - 32 4. The character of equipment and facilities needed preliminary to and
33 during performance of the Contract Work.
34
 - 35 C. Has satisfied itself as to the adequacy of time allowed for the completion of
36 the Contract Work;
37
 - 38 D. Has not discovered any patent ambiguities, other than those identified in
39 writing to WSF, that would be discovered by a prudent contractor in preparing
40 its bid; and
41
 - 42 E. Has read, fully understands and intends to sign the Contract, without
43 modification.
44

1 Any failure of the bidder to take the actions acknowledged above shall not relieve the
2 bidder from responsibility of estimating properly the difficulty and cost of
3 successfully performing the Contract Work, or from proceeding to successfully
4 perform the Contract Work without additional expense to WSF.
5

6 The bidder agrees that WSF shall not be liable to it on any claim for additional
7 payment or additional time or any claim whatsoever if the claim directly or indirectly
8 results from the bidder's failure to investigate and familiarize itself sufficiently with
9 the conditions under which the Contract is to be performed.
10

11 The bidder shall be familiar and comply with all Federal, State, and local laws,
12 ordinances, and regulations which might affect those engaged in the Contract Work.
13 WSF will not consider any plea of misunderstanding or ignorance of such
14 requirements.
15

16 Bid prices shall reflect what the bidder anticipates to be the cost of completing the
17 work, including methods, materials, labor, and equipment. Except as the Contract
18 may provide, the bidder shall receive no payment for any costs that exceed those in
19 the bid prices.
20

21 Prospective bidders are advised that projects with work on or adjacent to water may
22 require insurance coverage in compliance with:
23

- 24 A. The Longshoremen's and Harbor Worker's Compensation Act (administered
25 by U.S. Department of Labor), and/or
26
- 27 B. The State Industrial Insurance (administered by the Washington State
28 Department of Labor and Industries).
29

30 The Contractor shall bear all cost for such insurance, as provided in: (i) Section 1-
31 07.10, Worker Benefits, of the Standard Specifications for Road, Bridge and
32 Municipal Construction of the State of Washington – English; and/or (ii) the
33 Contract.
34

35 No Claim shall be allowed because of any ambiguity in the Contract if:
36

- 37 A. The bidder discovers an ambiguity but fails to notify WSF; or
38
- 39 B. The bidder failed to discover a patent ambiguity that would be discovered by
40 a reasonably prudent contractor in preparing its bid.
41

42 For an explanation or interpretation of the bid documents, please refer to the IFB
43 Package and Interpretation Section herein.
44
45

1 **6. BID FORM**

2
3 At the request of a prequalified bidder, WSF will provide a Bid Form for any project
4 on which the bidder is eligible to bid. The Bid Form will identify the project and its
5 location and describe the work. It will also list estimated quantities, units of
6 measurement, the items of work, and the materials to be furnished at the unit bid
7 prices. The bidder shall complete spaces on the Bid Form that call for unit prices,
8 extensions, the total bid amount, signatures, date, acknowledgment of Addenda, and
9 the bidder's address. The required certifications are included as part of the Bid
10 Form.

11
12
13 **7. ESTIMATED QUANTITIES**

14
15 The quantities shown in the Bid Form and the Contract forms are estimates and are
16 stated only for bid comparison purposes. WSF does not warrant expressly or by
17 implication, that the actual quantities of work will correspond with those estimates.
18 Payment will be made on the basis of the actual quantities of each item of work
19 completed in accordance with the Contract requirements.

20
21
22 **8. PREPARATION OF BID**

23
24 Each bid shall be submitted only on the Bid Form furnished by WSF and shall be
25 signed by the bidder. This official Bid Form will be furnished to all firms who are
26 prequalified by WSF as required for this project. All prices, acknowledgments, and
27 signatures shall be legibly entered in the spaces provided on the Bid Form, typed or in
28 ink, and without alteration.

29
30 A sample Bid Form is enclosed herewith. This sample form is for bidders' guidance
31 only, and is not to be used for bidding, unless otherwise approved in writing by WSF.

32
33 Bid prices shall reflect what the bidder forecasts to be the cost of completing the
34 Contract Work at the time of performance, including methods, materials, labor and
35 equipment. There will be no adjustment in the Total Contract Price due to either
36 upward or downward changes in the rate of inflation. The bidder must project any
37 changes in cost/price during the term of the Contract and include such projection in
38 its bid price. Except as the Contract may provide, the bidder shall receive no
39 payment for any costs that exceed those in the bid prices.

40
41 Any unit price that is left blank or does not contain numeric figures will be
42 considered no charge for that bid item. The extension for that bid item will also be
43 treated as no charge and reflected as such in the total contract price regardless of what
44 has been placed in the extension column.

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All prices shall be in legible figures (not words) written in ink or typed. The bid shall include:

- A. A unit price for each item (omitting digits more than four places to the right of the decimal point),
- B. An extension for each unit price (omitting digits more than two places to the right of the decimal point), and
- C. The total contract price (the sum of all extensions).

In the space provided on the signature sheet, the bidder shall confirm that all IFB Addenda have been received.

The bidder shall submit a completed "Disadvantaged, Minority or Women's Business Enterprise Certification" if it applies.

The bidder shall submit with the bid a list of:

- A. Subcontractors who will perform the work of heating, ventilation and air conditioning, plumbing as described in Chapter 18.106 RCW and electrical as described in Chapter 19.28 RCW; and
- B. The work those subcontractors will perform on the Contract.

The bidder shall not list more than one subcontractor for each category of work identified, except, when subcontractors vary with bid alternates, in which case the bidder shall identify which subcontractor will be used for which alternate. If no subcontractor is listed, the bidder acknowledges that it does not intend to use any subcontractor to perform those items of work;

Bids of corporations shall be signed by the officer or officers having authority to sign them. If a bidder is a partnership, the bid shall be signed by an authorized member of the partnership. When the bidder is a joint venture, the bid shall be signed by one or more individuals as authorized by the Joint Venture.

1 **9. SALES OR USE TAX**

2
3 In accordance with RCW 82.08.0285 and 82.12.0279, Washington State sales or use
4 taxes shall not be included in any bid prices since neither sales nor use taxes are
5 applicable to: sales of ferry vessels to the State of Washington for transportation
6 within or outside territorial waters; sales of tangible property which becomes a
7 component part of such vessels; and sales or charges for labor or services rendered in
8 the construction or improving such vessels. WSF will provide any available
9 Exemption Certificate to the successful bidder, upon request.

10
11
12 **10. DBE GOAL**

13 **Disadvantaged Business Enterprises**

14
15
16 Currently, a Disadvantaged Business Enterprise (DBE) goal is under review at the
17 Office of Equal Opportunity. WSF will advise all bidders of the DBE goal status by
18 IFB Addendum. If a DBE goal is established, it will be inserted into the DBE
19 participation document attached hereto and incorporated herein as **Exhibit "A"**.

20
21
22 **11. BID SECURITY**

23
24 Each bid shall be accompanied by Bid Security equal to at least five percent (5%) of
25 the Total Bid Price, as shown on the Bid Form. Bid Security shall be in the form of
26 (i) cash, a certified check, cashier's check, or project Bid Bond, or (ii) an annual Bid
27 Bond. Checks shall be payable to Washington State Ferries.

28
29 The Bid Security shall be submitted as evidence of good faith and as a guarantee that,
30 if awarded the Contract, the bidder will execute and deliver the Contract and provide
31 the required Contract Security. Failure to furnish the required Bid Security shall
32 make the bid nonresponsive and shall cause the bid to be rejected by WSF.

33
34 If a project or annual Bid Bond is selected, it must be submitted on a Bid Bond form
35 furnished or approved by WSF and signed by the bidder and its surety. A Bid Bond
36 shall not be conditioned in any way to modify the required five percent (5%) amount.
37 The surety shall: (i) be registered with the Washington State Insurance
38 Commissioner; and (ii) appear on the current Authorized Insurance List in the State
39 of Washington published by the Office of the Insurance Commissioner. See Section
40 26, Return of Bid Security, for related information.

41
42 Should the successful bidder fail to enter into the enclosed Contract with WSF and
43 furnish satisfactory Contract Security within the time period specified, the Bid
44 Security shall be forfeited as liquidated damages, unless WSF approves a delay in
45 writing.

1
2
3 **12. NONCOLLUSION DECLARATION**
4

5 When required by Section 112(c) Title 23, United States Code, a declaration shall be
6 provided certifying that the bidder has not taken part in collusion or other action that
7 would restrain competitive bidding.
8

9 The Code of Federal Regulations [23 CFR Part 635.107(i)(I)] requires that: "Each
10 proposer shall file a sworn or unsworn statement executed by, or on behalf of the
11 person, firm, association, or corporation submitting the Proposal, certifying that such
12 persons, firm, association, or corporation has not either directly or indirectly, entered
13 into any agreement, participated in any collusion, or otherwise taken any action in
14 restraint of free competitive bidding in connection with the submitted Proposal.
15 Failure to submit the sworn or unsworn statement as part of the Proposal package will
16 make the Proposal nonresponsive and not eligible for award consideration". In
17 addition, 23 CFR Part 635.107(i) requires that WSF provide the form for the
18 declaration to prospective bidders and that the declaration shall be executed by such
19 persons, firm, association, or corporation under penalty of perjury under the laws of
20 the United States.
21

22 Therefore, by signing the bid, the bidder will be deemed to have signed and agreed to
23 the requirements of the Noncollusion Declaration.
24

25
26 **13. DELIVERY OF BIDS**
27

28 Bids must be submitted in a sealed envelope, together with the required Bid Security,
29 properly addressed as follows:
30

31 **Mailing and Delivery Address: (NW Corner of Second & Broad)**
32

33 Washington State Ferries
34 2911 2nd Avenue
35 Seattle, Washington 98121
36

37 Attn: Legal Services / Contracts Department
38

39 RE: BID FOR M. V. TILLIKUM
40 DRYDOCKING CONTRACT
41

42 All bidders are advised that the Contract and Contract Security should **not** be
43 executed at the time of submitting a bid.
44

1 **14. PROPRIETARY DATA**
2

3 Any document(s) or information which a bidder believes is exempt from public
4 disclosure (RCW 42.17.310) shall be clearly identified by the bidder and placed in a
5 separate envelope marked with the IFB project name, the bidder's name, and the
6 words "Proprietary Data" along with a statement of the basis for such claim of
7 exemption. WSF's sole responsibility shall be limited to maintaining the above data
8 in a secure area and to notify such bidder of any request(s) for disclosure within a
9 period of five (5) years from the award date. Failure to so label such materials, or
10 failure to provide a timely response after notice of request for public disclosure has
11 been given, shall be deemed a waiver by a bidder of any claim that such materials are,
12 in fact, so exempt.
13

14 Notwithstanding such limitations, all bids submitted under this IFB shall be
15 considered confidential until WSF has awarded the Contract.
16
17

18 **15. ALTERATIONS, MISREPRESENTATIONS**
19

20 Except as otherwise provided herein, bids which are incomplete, conditioned in any
21 way, contain alterations or items not called for on the Bid Form, or which are not in
22 conformity to the law, will be rejected as non-responsive. Additionally, a bidder shall
23 not misrepresent its Prequalification status, the amount of its bid, or its ability to
24 perform the Contract Work. Misrepresentation may be cause for: (i) rejection of a
25 bid; (ii) cancellation of Contract award; or (iii) termination of the Contract.
26
27

28 **16. WITHDRAWAL OR REVISION OF BIDS**
29

30 After submitting a bid to WSF, the bidder may withdraw or revise it if:

- 31
32 A. The bidder submits a written request signed by an authorized person; and
33
34 B. WSF receives the request before the Bid Due Date.
35

36 The original bid may be revised and resubmitted as the official bid if WSF receives it
37 before the Bid Due Date.
38
39
40

1 **17. PUBLIC OPENING OF BIDS**

2
3 The bids will be publicly opened and read on the Bid Due Date specified in Section 2
4 herein, unless the Bid Due Date has been delayed or canceled. Bidders, their
5 authorized agents, and other interested parties are invited to be present.
6

7 All bid openings shall be held at WSF's administrative offices located at 2911 2nd
8 Ave. in downtown Seattle unless otherwise specified by WSF.
9

10
11 **18. IRREGULAR BIDS**

12
13 A. A bid **will** be considered irregular and **will** be rejected by WSF if:

- 14
15 1. The bidder is not prequalified;
16
17 2. The Bid Form furnished or authorized by WSF is not used, or is altered;
18
19 3. The completed Bid Form contains any unauthorized additions, deletions,
20 alternative bids, or conditions;
21
22 4. The bidder adds any provisions reserving the right to reject or accept the
23 award, or enter into the Contract;
24
25 5. A price per unit (if applicable) cannot be determined from the bid;
26
27 6. The Bid Form is not properly executed;
28
29 7. The bidder fails to submit or properly complete the Bid Form
30 Attachments; or
31
32 8. The bid does not constitute a definite and unqualified offer to meet the
33 material terms of the IFB.

1 B. A bid **may** be considered irregular and **may** be rejected by WSF if:

- 2
- 3 1. WSF deems any of the bid prices to be excessively unbalanced, either
- 4 above or below the amount of a reasonable bid for the item of work to
- 5 be performed, to the potential detriment of WSF;
- 6
- 7 2. Receipt of Addenda is not acknowledged on the Bid Form;
- 8
- 9 3. A member of a joint venture and the joint venture both submit bids for
- 10 the same project (in such an instance, both bids may be rejected); or
- 11
- 12 4. Bid entries are not legibly typed or made in ink.
- 13

14

15 **19. NON-RESPONSIBILITY**

16

17 A. WSF, at its discretion, **may** reject a bid if it determines that a bidder is not

18 responsible for any of the following reasons:

19

- 20 1. More than one bid on the same project is received from a bidder under
- 21 the same or different names;
- 22
- 23 2. Evidence of collusion with any other bidder or bidders is found.
- 24 Participants in such collusion will be disqualified from submitting bids
- 25 on any further work;
- 26
- 27 3. A bidder is not prequalified for the work or to the full extent of the
- 28 bid;
- 29
- 30 4. An unsatisfactory performance record exists based on past or current
- 31 WSF or WSDOT work;
- 32
- 33 5. There is uncompleted work (WSF or otherwise) which might hinder or
- 34 prevent the prompt completion of the Contract Work;
- 35
- 36 6. The bidder fails to pay or settle bills for labor or materials on past or
- 37 current contracts;
- 38
- 39 7. The bidder has failed to complete a written public contract, or has
- 40 been convicted of a crime arising from a previous public contract;
- 41
- 42 8. The bidder is unable, financially or otherwise, to perform the Contract
- 43 Work;
- 44

1 9. The bidder is not authorized to do business in the State of Washington;
2 or

3
4 10. There are any other reasons deemed proper by WSF.
5
6

7 **20. PRE-AWARD INFORMATION**

8
9 Before awarding the Contract, WSF may require one or more of these items or
10 actions of the apparent successful bidder:

- 11
12 A. A complete statement of the origin, composition, and manufacture of any or
13 all materials to be used;
14
15 B. Samples of these materials for quality and fitness tests;
16
17 C. A breakdown of costs assigned to any bid item;
18
19 D. Attendance at a conference with WSF or its representatives;
20
21 E. A progress schedule showing the order of and time required for various
22 phases of Contract Work; and/or
23
24 F. Any other item or action deemed appropriate by WSF to complete the bid
25 evaluation.
26
27

28 **21. CONSIDERATION OF BIDS**

- 29
30 A. After opening and reading the bids, WSF will verify the bids for correctness
31 of form, compliance with bid terms set forth herein, and the extensions and
32 totals of the unit prices. WSF may reject a bid or disqualify a bidder for those
33 reasons set forth herein. If a discrepancy exists between the price per unit and
34 the extended amount of any bid item, the price per unit will control. The total
35 of extensions, corrected where necessary, will be used by WSF for bid
36 evaluation, and to determine the amount of the Contract Bond.
37
38 B. WSF reserves the right to: waive informalities in the bidding process, accept
39 the bid of the responsible bidder whose bid offers the lowest TOTAL BID
40 PRICE; reject any or all bids (see next paragraph); republish the call for bids;
41 revise or cancel the Contract Work to be performed; or to do the Contract
42 Work otherwise, if in its sole judgment, the best interests of WSF is served
43 thereby.
44

- 1 C. Bidders are notified that WSF reserves the right to reject any or all bids,
2 without cause or for any reason, including rejection where the lowest
3 responsive and responsible bid exceeds WSF's good faith estimate by an
4 unreasonable amount. In the event all bids are rejected, the project may be
5 deferred indefinitely for re-advertisement, or otherwise.
6
- 7 D. A bidder who wishes to claim error after the bids have been publicly opened
8 and read as required by RCW 47.28.090 shall promptly notify WSF that an
9 error occurred. The bidder shall submit a notarized affidavit or declaration
10 under penalty of perjury signed by the bidder and accompanied by the work
11 sheets used in the preparation of the bid, requesting relief from the
12 responsibilities of award. The affidavit or declaration shall describe the
13 specific error(s) and certify that the work sheets are the ones used in preparing
14 the bid.
15
- 16 E. The affidavit or declaration shall be submitted no later than 5:00 p.m. on the
17 first business day after the Bid Due Date or the claim will not be considered.
18 WSF will review the affidavit or declaration and the certified work sheets to
19 determine the validity of the claimed error and if the error is of the kind for
20 which the law allows relief from forfeiture of the bid deposit. If WSF concurs
21 in the claim of error and determines that the error is of the kind which allows
22 relief from forfeiture, the bidder will be relieved of responsibility and the bid
23 deposit of the bidder will be returned. If WSF does not concur in the error or
24 determines that the error is not the kind for which the law allows relief, WSF
25 may award the Contract and if the bidder refuses to execute the Contract, the
26 bidder's bid deposit shall be forfeited as required by RCW 47.28.100.
27
28

29 **22. AWARD OF CONTRACT**
30

- 31 A. The successful bidder will be the responsive and responsible bidder who
32 offers WSF the lowest TOTAL BID PRICE as shown on the Bid Form.
33
- 34 B. The Contract Award amount will be the TOTAL BID PRICE as shown on
35 the Bid Form.
36
- 37 C. In the event two or more bids are equal in amount, WSF will select the
38 successful bid by a coin toss or by lot.
39
- 40 D. Unless all bids are rejected, WSF intends to award the Contract within six (6)
41 calendar days after the Bid Due Date; **Provided**, all bids shall remain in effect
42 for ninety (90) calendar days after the Bid Due Date. Upon mutual consent of
43 the apparent successful bidder and WSF, this period may be extended. If the
44 apparent successful bidder and WSF cannot agree on an extension, WSF
45 reserves the right to award the Contract to the next lowest responsive and

1 responsible bidder or reject all bids. WSF will notify the successful bidder in
2 writing when it has been awarded the Contract. WSF shall also notify all
3 other bidders that they were not selected.
4
5

6 **23. EXECUTION OF CONTRACT**
7

- 8 A. The successful bidder shall return the signed Contract, and the required
9 evidence of insurance and Contract Security by the due date specified in the
10 IFB Schedule, as amended and specified in the Contract Award Notice.
11 Before execution of the Contract by WSF, the successful bidder shall provide
12 any pre-award information WSF may require under the Pre-Award
13 Information section herein.
14
15 B. Until WSF signs the Contract, no bid shall bind WSF, nor shall any Contract
16 work begin. The Contractor shall bear all risks for any Contract work begun
17 and for any materials ordered before the Contract is signed by WSF.
18
19 C. If the bidder experiences circumstances beyond its control that prevents return
20 of the Contract Documents within the specified number of days after the
21 award date, WSF may grant additional calendar days for return of the
22 Documents, provided WSF deems the circumstances warrant it.
23
24

25 **24. CONTRACT SECURITY**
26

27 As required by Revised Code of Washington ("RCW") 39.08, a bond and/or alternate
28 form(s) of Contract Security shall be provided by the Contractor in an amount
29 adequate to protect one hundred percent (100%) of WSF's exposure to loss associated
30 with the Contract.
31

32 All proposed alternate form(s) of Contract Security must be delivered to the WSF
33 Contracts Coordinator for approval no later than five (5) working days before the Bid
34 Due Date. If WSF and the Contractor cannot agree as to the form of Contract
35 Security prior to the Bid Due Date, WSF reserves the right to reject the proposed
36 security.
37

38 If the successful bidder provides an executed Contract Bond (or Performance Bond
39 plus Payment Bond) form of Contract Security, the Bond(s) shall:
40

- 41 A. Be on a WSF-furnished form(s), sample copies of which are included in the
42 IFB package;

- 1 B. Be signed by an approved surety (or sureties) that:
2
3 1. Is registered with the Washington State Insurance Commissioner; and
4
5 2. Appears on the current Authorized Insurance List in the State of
6 Washington published by the Office of the Insurance Commissioner;
7
8 C. Be conditioned upon the faithful performance of the Contract by the
9 Contractor within the prescribed time; and
10
11 D. Guarantee that the surety shall indemnify, defend, and protect WSF against
12 any claim of direct or indirect loss resulting from the failure:
13
14 1. Of the Contractor (or any of the employees, subcontractors, or lower
15 tier subcontractors of the Contractor) to faithfully perform the
16 Contract; or
17
18 2. Of the Contractor (or the subcontractors or lower tier subcontractors of
19 the Contractor) to pay all laborers, mechanics, subcontractors, lower
20 tier subcontractors, materialperson, or any other person who provides
21 supplies or provisions for carrying out the work.
22

23 WSF may require sureties or surety companies on the Contract Bond to appear and
24 qualify themselves. Whenever WSF deems the surety or sureties to be inadequate, it
25 may, upon written demand, require the Contractor to furnish additional surety to
26 cover any remaining work. Until the added surety is furnished, payments on the
27 Contract will stop.
28

29 A more complete discussion of Contract Security is set forth in the IFB "Special
30 Provisions".
31
32

33 **25. FAILURE TO EXECUTE CONTRACT**

34

35 Failure to return evidence of insurance and approved Contract Security with the
36 signed Contract as required herein, or failure to provide Disadvantaged, Minority or
37 Women's Business Enterprise information if required in the Contract, or failure or
38 refusal to sign the Contract shall result in forfeiture of Bid Security. If this should
39 occur, WSF may then award the Contract to the responsive and responsible bidder
40 who offers WSF the second lowest TOTAL BID PRICE, or reject all remaining bids.
41 If the second lowest responsible bidder fails to return the required documents as
42 stated above within the time provided after award, the Contract may then be awarded
43 successively in a like manner to the remaining lowest responsive and responsible
44 bidders until the above requirements are met or the remaining bids are rejected.

1
2
3 **26. RETURN OF BID SECURITY**
4

5 All Bid Security will be held until the executed Contract and the Contract Security
6 have been provided to WSF. At such time, all Bid Security in the form of cash or
7 checks not subject to forfeiture, including the successful bidder's, shall be returned.
8 Bid Bonds shall be returned upon request.
9

10
11 **27. PROTEST PROCEDURES**
12

13 **A. Form and Substance**
14

15 All bidder protests regarding any contents or portion of this Bid Package must
16 be submitted to WSF as soon as possible after the bidder/protestant becomes
17 aware of the reason(s) for the protest. All protests must be in writing and
18 signed by the bidder/protestant or an authorized agent. Such writing must
19 state all facts and arguments on which the bidder/protestant is relying as the
20 basis for its action. Such bidder/protestant shall also attach, or supply on
21 demand by WSF, any relevant exhibits referenced in the writing. Copies of
22 all protests and exhibits shall be mailed or delivered by the bidder/protestant
23 to the bidder against whom the protest is made (if any) at the same time such
24 protest and exhibits are submitted to WSF. All protests shall be directed to:
25

26 Washington State Ferries
27 2911 2nd Avenue
28 Seattle, Washington 98121
29

30 Attn.: Mr. Tim McGuigan, Director of Legal Services & Contracts
31 Phone: (206) 515-3601
32 Fax: (206) 515-3605
33

34 **B. Pre-award Protests**
35

36 To allow sufficient response time, all pre-award protests must be received by
37 WSF no later than the 3:00 p.m. of the second business day starting the next
38 day after the Bid Due Date. If the protest is mailed after the Bid Due Date
39 and before the pre-award protest deadline, the bidder/protestant shall
40 immediately notify WSF's Contracts/Legal Services Manager by telephone, or
41 some other means of rapid communication, that a protest has been made.
42

43 WSF shall consider all the facts available to it, and issue a decision in writing
44 within five (5) business days after receipt of the protest, unless, in WSF's sole
45 discretion, more time is needed. The bidder/protestant and the bidder(s)

1 against whom the protest is made will be notified if a longer time is necessary;
2 and if the additional time required affects the Bid Due Date or the award date,
3 all bidders shall be notified.
4

5 WSF's decision shall be final and conclusive. Selection of the successful
6 bidder, if one is to be made, will be postponed until after WSF has issued its
7 decision.
8

9 **C. Post-award Protests**

10
11 WSF shall immediately notify all unsuccessful bidders of WSF's award
12 decision. The award decision is conclusive unless appeal is taken by an
13 aggrieved party to the Superior Court of Thurston County within five (5)
14 calendar days after receiving notice of the award decision. The Court shall
15 hear any such appeal on WSF's administrative record for the project. The
16 Court may affirm the decision of WSF, or it may reverse the decision if it
17 determines the action of WSF was arbitrary and capricious.
18

19 Post-award protests which do not comply with the above-specified procedures
20 will not be considered.
21

22
23 **28. PRE-IFB REPRESENTATIONS**

24
25 All project information previously provided by WSF to interested parties, whether
26 verbal or in writing, is superseded by the contents of this IFB and all Addenda
27 thereto. WSF shall not be liable to any party for: (i) any prior representations made
28 by WSF or its agents; or (ii) the contents of any preliminary documents issued prior
29 to this IFB.
30

31
32 **29. PREPARATION COSTS**

33
34 WSF shall not be liable to any bidder for its bid preparation costs or any other direct
35 or indirect costs arising from a response to this IFB.

1 **30. TRANSPORTATION SECURITY ADMINISTRATION AND OFFICE OF**
2 **DOMESTIC PREPAREDNESS CERTIFICATIONS**

3 **1. RESTRICTION ON LOBBYING**
4

5 **INSTRUCTIONS**
6

- 7 1. The Lobbying Disclosure Act, 2 U.S.C., Section 1601 et seq. prohibits the use
8 of federal funds to influence federal employees, Members of Congress, and
9 Congressional staff regarding specific projects. Further, any person or entity
10 who uses non-federal funds for lobbying on behalf of specific projects or
11 proposals must submit disclosure documentation when these efforts are
12 intended to influence the decisions of federal officials. The provisions apply
13 to grants, contracts, and cooperative agreements involving \$100,000.00 or
14 more.
- 15 2. Accordingly, a Certification titled "Certification Regarding Lobbying" is
16 below. The Certification applies if the amount of the primary contract or any
17 subcontract equals or exceeds \$100,000.00. The Contractor shall ensure that
18 the Certification is included in every such subcontract and before any such
19 subcontractor commences work on the project.
- 20 3. Please note that a bidder's or a subcontractor's failure to furnish a Certification
21 may disqualify that person or firm from participating in the project.
- 22 4. The Certification below may be reproduced for compliance with the
23
24
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1 **CERTIFICATION REGARDING LOBBYING**

2
3 **(Third Party Contracts Over \$100,000).**

4
5 **By signing and submitting a bid / proposal for this project, the prospective**
6 **Contractor hereby certifies, to the best of its knowledge and belief, that:**

- 7
8 1. No Federal appropriated funds have been paid or will be paid, by or on behalf
9 of the undersigned, to any person for influencing or attempting to influence an
10 officer or employee of any agency, a Member of Congress, an officer or
11 employee of Congress, or an employee of a Member of Congress in
12 connection with the awarding of any Federal contract, the making of any
13 Federal grant, the making of any Federal loan, the entering into of any
14 cooperative agreement, and the extension, continuation, renewal, amendment,
15 or modification of any Federal contract, grant, loan, or cooperative agreement.
16
17 2. If any funds other than Federal appropriated funds have been paid or will be
18 paid to any person for influencing or attempting to influence an officer or
19 employee of any agency, a Member of congress, an officer or employee of
20 Congress, or an employee of a Member of Congress in connection with this
21 Federal contract, grant, loan, or cooperative agreement, the prospective
22 Contractor shall complete and submit Standard Form-LLL, "Disclosure Form
23 to Report Lobbying," in accordance with its instructions [as amended by
24 "Government Wide Guidance For New Restrictions on Lobbying", 61 Fed.
25 Reg. 1413 (1/19/96)].
26
27 3. The prospective Contractor shall require that the language of this certification
28 be included in the award documents for all sub-awards at all tiers (including
29 Sub-Contractors, sub-grants, and contracts under grants, loans, and
30 cooperative agreements) and that all Sub-Contractors shall certify and
31 disclose accordingly.

32
33 This prospective Contractor is a material representation of fact upon which
34 reliance is placed when this transaction was made or entered into. Submission
35 of this certification is a prerequisite for making or entering into this
36 transaction imposed by 31 U.S.C., Section 1352 (as amended by the Lobbying
37 Disclosure Act of 1995). Any person who fails to submit the required
38 certification shall be subject to a civil penalty of not less than \$10,000 and not
39 more than \$100,000 for each such failure.
40
41

1 [Note: Pursuant to 31 U.S.C. Section 1352(c)(1)-(2)(A), any person who
2 makes a prohibited expenditure or fails to file or amend a required
3 certification or disclosure form shall be subject to a civil penalty of not less
4 than \$10,000 and not more than \$100,000 for each such expenditure or
5 failure.]
6

7 The prospective Contractor certifies or affirms the truthfulness and accuracy
8 of each statement of its certification and disclosure (if any). In addition, the
9 prospective Contractor understands and agrees that the provisions of 31
10 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure (if any).

11
12 **2. GOVERNMENT – WIDE DEBARMENT AND SUSPENSION**

13 **A. INSTRUCTIONS**

- 14
15 1. Unless otherwise permitted by law, any person or entity that is
16 debarred, suspended or voluntarily excluded may not participate in this
17 federally assisted project, either as a participant or as a principal,
18 during the period of debarment, suspension, or voluntary exclusion.
19 To meet this requirement, a certification process has been established
20 by 49 C.F.R. Part 29.
21
22 2. Accordingly, a Contractor Certification titled “Government-Wide
23 Debarment and Suspension” is provided below. The Certification
24 applies if the bidder intends to utilize multiple subcontracts whose
25 total aggregate value exceeds \$100,000.00. For all other contracts,
26 and for all subcontractors regardless of contract value, a Subcontractor
27 Certification form also titled “Government-Wide Debarment and
28 Suspension”, is provided below. The prospective Contractor shall
29 ensure that the latter Certification form is included in every project
30 subcontract.
31
32 3. The inability of a person to provide the required Certification will not
33 necessarily result in denial of participation in this project. However, a
34 person that is unable to provide a positive Certification must attach a
35 complete explanation, as so noted on the Certification.
36
37 4. The Certification of Subcontractors is provided below and must be
38 included by the Contractor in each and every subcontract, and before
39 any such subcontractor commences work on the project.
40
41 5. Please note that a bidder's or a subcontractor's failure to agree to
42 provide a Certification (or an explanation) may disqualify that person
43 or firm from participating in the project.

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**B. CERTIFICATION OF CONTRACTOR REGARDING
DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY
MATTERS**

(Third Party Contracts Over \$100,000).

1. **By signing and submitting a bid / proposal, for this project, the prospective Contractor is providing the certification set out below.**
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the State may pursue available remedies, including suspension and/or debarment.
3. The prospective Contractor shall provide immediate written notice to the State if at any time the prospective Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact the State for assistance in obtaining a copy of those regulations.
5. The prospective Contractor agrees by submitting this bid/proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by the State.

6. The prospective Contractor further agrees by submitting this bid/proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.
8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, the State may pursue available remedies including suspension and/or debarment.

C. CERTIFICATION OF CONTRACTOR REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

- PRIMARY COVERED TRANSACTION

(Third Party Contracts Over \$100,000).

1. The prospective Contractor hereby certifies, by submission of this bid / proposal, that neither it nor its "principals" (as defined in 49 CFR. §29.105 (p) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

- 1 2. When the prospective Contractor is unable to certify to any of the
2 statements in this certification, such prospective Contractor shall
3 attach an explanation to this bid / proposal.
4

5 The prospective Contractor certifies or affirms the truthfulness and accuracy of each
6 statement of its certifications and disclosure (if any). In addition, the prospective
7 Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, et seq.,
8 apply to these certifications and disclosure (if any).
9

10 **D. CERTIFICATION OF SUBCONTRACTOR REGARDING**
11 **DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY**
12 **MATTERS**
13

14 **(Third Party Contracts Over \$100,000).**

- 15 1. **By signing and submitting a bid / proposal, for this project, the**
16 **prospective lower tier participant is providing the certification set**
17 **out below.**
- 18 2. The certification in this clause is a material representation of fact upon
19 which reliance was placed when this transaction was entered into. If it
20 is later determined that the prospective lower tier participant
21 knowingly rendered an erroneous certification, in addition to other
22 remedies available to the Federal Government, the State may pursue
23 available remedies, including suspension and/or debarment.
- 24 3. The prospective lower tier participant shall provide immediate written
25 notice to the State if at any time the prospective lower tier participant
26 learns that its certification was erroneous when submitted or has
27 become erroneous by reason of changed circumstances.
- 28 4. The terms "covered transaction," "debarred," "suspended,"
29 "ineligible," "lower tier covered transaction," "participant," "persons,"
30 "lower tier covered transaction," "principal," "proposal," and
31 "voluntarily excluded," as used in this clause, have the meanings set
32 out in the Definitions and Coverage sections of rules implementing
33 Executive Order 12549 [49 CFR Part 29]. You may contact the State
34 for assistance in obtaining a copy of those regulations.
35

- 1 5. The prospective lower tier participant agrees by submitting this
2 bid/proposal that, should the proposed covered transaction be entered
3 into, it shall not knowingly enter into any lower tier covered
4 transaction with a person who is debarred, suspended, declared
5 ineligible, or voluntarily excluded from participation in this covered
6 transaction, unless authorized in writing by the State.
- 7 6. The prospective lower tier participant further agrees by submitting this
8 bid/proposal that it will include the clause titled "Certification
9 Regarding Debarment, Suspension, Ineligibility and Voluntary
10 Exclusion - Lower Tier Covered Transaction", without modification,
11 in all lower tier covered transactions and in all solicitations for lower
12 tier covered transactions.
- 13 7. A participant in a covered transaction may rely upon a certification of
14 a prospective participant in a lower tier covered transaction that it is
15 not debarred, suspended, ineligible, or voluntarily excluded from the
16 covered transaction, unless it knows that the certification is erroneous.
17 A participant may decide the method and frequency by which it
18 determines the eligibility of its principals. Each participant may, but is
19 not required to, check the Nonprocurement List issued by U.S. General
20 Service Administration.
- 21 8. Nothing contained in the foregoing shall be construed to require
22 establishment of system of records in order to render in good faith the
23 certification required by this clause. The knowledge and information
24 of a participant is not required to exceed that which is normally
25 possessed by a prudent person in the ordinary course of business
26 dealings.
- 27 9. Except for transactions authorized under Paragraph 5 of these
28 instructions, if a participant in a covered transaction knowingly enters
29 into a lower tier covered transaction with a person who is suspended,
30 debarred, ineligible, or voluntarily excluded from participation in this
31 transaction, in addition to all remedies available to the Federal
32 Government, the State may pursue available remedies including
33 suspension and/or debarment.

1 **E. CERTIFICATION OF SUBCONTRACTOR REGARDING**
2 **DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY**
3 **EXCLUSION**

4 **– LOWER TIER COVERED TRANSACTION**

5
6 **(Third Party Contracts Over \$100,000).**

- 7
8 1. The prospective lower tier participant hereby certifies, by submission
9 of this bid / proposal, that neither it nor its “principals” (as defined in
10 49 CFR §29.105 (p) is presently debarred, suspended, proposed for
11 debarment, declared ineligible, or voluntarily excluded from
12 participation in this transaction by any Federal department or agency.
13
14 2. When the prospective lower tier participant is unable to certify to any
15 of the statements in this certification, such prospective lower tier
16 participant shall attach an explanation to this bid / proposal.

17
18
19 The subcontractor certifies or affirms the truthfulness and accuracy of each statement
20 of its certifications and disclosure (if any). In addition, the subcontractor understands
21 and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to these
22 certifications and disclosure (if any).

(END)

